

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-0501-MLM-E TCEQ ID: RN100847813 CASE NO.: 35610

RESPONDENT NAME: GEOSOURCE, INC. DBA GEOSOURCE AKA WAGNER MATERIALS

| | | |
|--|--|---|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE | <input checked="" type="checkbox"/> EDWARDS AQUIFER | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: South side of FM 1863, approximately one mile east of US 281 North, Bexar and Comal Counties</p> <p>TYPE OF OPERATION: Wood recycling facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617 Ms. Lena Robers, Litigation Division, MC 175, (512) 239-0019</p> <p>TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Water Enforcement Section, MC R-13, (210) 490-3096</p> <p>TCEQ Regional Contact: Mr. Joel Anderson, San Antonio Regional Office, MC R-13, (210) 403-4010 Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050</p> <p>Respondent: Mr. Robert Fly, Jr., President, Geosource, Inc., 29768 Bulverde Lane, Bulverde, Texas 78163</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter.</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|---|--|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: January 15, 2008 and January 28, 2008</p> <p>Dates of NOE Relating to this Case: January 24, 2008 and March 12, 2008</p> <p>Background Facts:</p> <p>The EDP RP was filed on February 14, 2008. A settlement agreement was reached and the Respondent signed the Agreed Order on July 11, 2008.</p> <p>Current Compliance Status:</p> <p>The Respondent has not submitted certification of compliance with the Ordering Provisions.</p> <p>MLM:</p> <p>1. Failed to dispose of municipal solid waste in an authorized manner [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2. Failed to receive approval of modifications to an Edwards Aquifer Water Pollution Abatement Plan ("WPAP") prior to performing a regulated activity [30 TEX. ADMIN. CODE § 213.4(j)(2)].</p> | <p>Total Assessed: \$3,500</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid / Due to General Revenue: \$1,000/ \$2,500</p> <p>The Respondent has paid \$1,000 of the administrative penalty. The remaining amount of \$2,500 of the administrative penalty shall be payable in 5 monthly payments of \$500 each.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately, cease accepting and/or disposing of any additional non-inert material or waste either for the use of fill material and/or to be buried at the Facility.</p> <p>2. Within 30 days, ensure that all unauthorized non-inert material or waste buried and/or being used as fill material at the Facility is removed and properly disposed of at an authorized facility.</p> <p>3. Within 45 days, submit written notarized certification of compliance with the above Ordering Provisions.</p> |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

| | | | | | | |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 25-Jan-2008 | Screening | 29-Jan-2008 | EPA Due | |
| | PCW | 29-Jan-2008 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|----------------------|--|--------------------|-------|
| Respondent | Geosource, Inc. dba Geosource aka Wagner Materials | | |
| Reg. Ent. Ref. No. | RN100847813 | | |
| Facility/Site Region | 13-San Antonio | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|-------------------|-----------------------|-------------------|--------------------|
| Enf./Case ID No. | 35610 | No. of Violations | 1 |
| Docket No. | 2008-0501-MLM-E | Order Type | 1660 |
| Media Program(s) | Municipal Solid Waste | Enf. Coordinator | Yuliya Dunaway |
| Multi-Media | Edwards Aquifer | EC's Team | Enforcement Team 2 |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum |
| | | \$10,000 | |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 \$0

Notes The Respondent is classified as an Average Performer.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes The Respondent does not meet the good faith criteria.

| | | | | |
|----------------------------|-------|-----------------------------------|------------|-----|
| Total EB Amounts | \$17 | 0% Enhancement* | Subtotal 6 | \$0 |
| Approx. Cost of Compliance | \$540 | *Capped at the Total EB \$ Amount | | |

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,000

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$1,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,000

DEFERRAL 0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$1,000

PCW 1

Screening Date 29-Jan-2008

Docket No. 2008-0501-MLM-E

PCW

Respondent Geosource, Inc. dba Geosource aka Wagner Materials

Policy Revision 2 (September 2002)

Case ID No. 35610

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100847813

Media [Statute] Municipal Solid Waste

Enf. Coordinator Yuliya Dunaway

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent is classified as an Average Performer.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

| | | | | | | |
|---|---|---|---|---|--|--|
| Screening Date 29-Jan-2008 | | Docket No. 2008-0501-MLM-E | | PCW | | |
| Respondent Geosource, Inc. dba Geosource aka Wagner Materials | | <i>Policy Revision 2 (September 2002)</i> | | | | |
| Case ID No. 35610 | | <i>PCW Revision November 6, 2007</i> | | | | |
| Reg. Ent. Reference No. RN100847813 | | | | | | |
| Media [Statute] Municipal Solid Waste | | | | | | |
| Enf. Coordinator Yuliya Dunaway | | | | | | |
| Violation Number | | <div style="border: 1px solid black; width: 100px; text-align: center;">1</div> | | | | |
| Rule Cite(s) | | <div style="border: 1px solid black; width: 100%; text-align: center;">30 Tex. Admin. Code § 330.15(c)</div> | | | | |
| Violation Description | | <div style="border: 1px solid black; padding: 5px;">Failed to dispose of municipal solid waste in an authorized manner, as documented during an investigation conducted on January 15, 2008. Specifically, approximately 20 cubic yards of non-inert materials (wood, silt fencing, metal, and plastics) were buried and/or being used as fill materials at the site.</div> | | | | |
| Base Penalty | | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$10,000</div> | |
| >> Environmental, Property and Human Health Matrix | | | | | | |
| OR | Harm | | | | | |
| | Release | Major | Moderate | Minor | | |
| | Actual | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | x | | |
| | Potential | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | Percent | <div style="border: 1px solid black; width: 50px; text-align: center;">10%</div> |
| >> Programmatic Matrix | | | | | | |
| | Falsification | Major | Moderate | Minor | | |
| | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | Percent | <div style="border: 1px solid black; width: 50px; text-align: center;">0%</div> |
| Matrix Notes | | Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceeds levels that are protective of human health or environmental receptors as a result of this violation. | | | | |
| Adjustment | | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$9,000</div> | |
| | | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$1,000</div> | |
| Violation Events | | | | | | |
| Number of Violation Events | | <div style="border: 1px solid black; width: 50px; text-align: center;">1</div> | Number of violation days | | <div style="border: 1px solid black; width: 50px; text-align: center;">25</div> | |
| mark only one with an x | daily | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | |
| | monthly | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | |
| | quarterly | x | | | | |
| | semiannual | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | |
| | annual | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | |
| | single event | <div style="border: 1px solid black; width: 50px; height: 15px;"></div> | | | | |
| Violation Base Penalty | | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$1,000</div> | |
| One quarterly event is recommended from the January 14, 2008 investigation date to the January 29, 2008 screening date. | | | | | | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | | |
| Estimated EB Amount | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$17</div> | Violation Final Penalty Total | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$1,000</div> | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$1,000</div> | |

Economic Benefit Worksheet

Respondent Geosource, Inc. dba Geosource aka Wagner Materials

Case ID No. 35610

Reg. Ent. Reference No. RN100847813

Media Municipal Solid Waste

Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|-----|------|-----|------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$540 | 14-Jan-2008 | 5-Sep-2008 | 0.6 | \$17 | n/a | \$17 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to dispose of approximately 20 cubic yards of municipal solid waste at an authorized facility. Date Required is the investigation date and Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$540

TOTAL

\$17

Compliance History

| | | | | |
|---|---|--------------------------------|-------------------------|--------------|
| Customer/Respondent/Owner-Operator: | CN600523922 | Geosource, Inc. | Classification: AVERAGE | Rating: 3.01 |
| Regulated Entity: | RN100847813 | GEOSOURCE AKA WAGNER MATERIALS | Classification: | Site Rating: |
| ID Number(s): | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | 945333N | |
| | AIR NEW SOURCE PERMITS | PERMIT | 47789 | |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | 947789V | |
| | EDWARDS AQUIFER | REGISTRATION | 13-06030103 | |
| Location: | S SIDE OF FM 4863 E OF HWY 281 - SITE IS LOCATED ON FM 1863, COMAL AND BEXAR COUNTIES | | | |
| TCEQ Region: | REGION 13 - SAN ANTONIO | | | |
| Date Compliance History Prepared: | January 29, 2008 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | January 29, 2003 to January 29, 2008 | | | |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Dana Shuler Phone: (512) 239-2505

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Geosource, Inc.
4. If Yes, who was/were the prior owner(s)? Imogene Wagner Co dba Wagner Materials
5. When did the change(s) in ownership occur? 01/15/2008

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 01/25/2008 (615470)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

EXHIBIT

CH # 1



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision February 29, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 17-Mar-2008 | Screening | 20-Mar-2008 | EPA Due | |
| | PCW | 24-Apr-2008 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|--|---------------------------|-------|
| Respondent | Geosource, Inc. dba Geosource aka Wagner Materials | | |
| Reg. Ent. Ref. No. | RN100847813 | | |
| Facility/Site Region | 13-San Antonio | Major/Minor Source | Major |

CASE INFORMATION

| | | | |
|--|-----------------------|--------------------------|--------------------|
| Enf./Case ID No. | 35610 | No. of Violations | 1 |
| Docket No. | 2008-0501-MLM-E | Order Type | 1660 |
| Media Program(s) | Edwards Aquifer | Enf. Coordinator | Yuliya Dunaway |
| Multi-Media | Municipal Solid Waste | EC's Team | Enforcement Team 2 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$2,500 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|----------------|--------------------------------|-----|
| Compliance History | 0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|----------------|--------------------------------|-----|

Notes

No penalty enhancement recommended due to average performer classification.

| | | | | |
|--------------------|----|----------------|-------------------|-----|
| Culpability | No | 0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|----------------|-------------------|-----|

Notes

The Respondent does not meet the culpability criteria.

| | | | |
|------------------------------------|--------------|-------------------|-----|
| Good Faith Effort to Comply | 0% Reduction | Subtotal 5 | \$0 |
|------------------------------------|--------------|-------------------|-----|

| | |
|------------|-------------------------------|
| Before NOV | NOV to EDPRP/Settlement Offer |
|------------|-------------------------------|

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

| | | | | |
|-----------------------------------|---------|--|-------------------|-----|
| Total EB Amounts | \$232 | 0% Enhancement* | Subtotal 6 | \$0 |
| Approx. Cost of Compliance | \$5,000 | *Capped at the Total EB \$ Amount | | |

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,500 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|----|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0% | Adjustment | \$0 |
|---|----|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$2,500 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$2,500 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|--------------|-------------------|-----|
| DEFERRAL | 0% Reduction | Adjustment | \$0 |
|-----------------|--------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$2,500 |
|------------------------|---------|

PCW 2

Screening Date 20-Mar-2008

Docket No. 2008-0501-MLM-E

PCW

Respondent Geosource, Inc. dba Geosource aka Wagner Materials

Policy Revision 2 (September 2002)

Case ID No. 35610

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN100847813

Media [Statute] Edwards Aquifer

Enf. Coordinator Yuliya Dunaway

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No penalty enhancement recommended due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

| | | | | |
|--|---|--|--|--|
| Screening Date 20-Mar-2008 | | Docket No. 2008-0501-MLM-E | | PCW |
| Respondent Geosource, Inc. dba Geosource aka Wagner Materials | | <i>Policy Revision 2 (September 2002)</i> | | |
| Case ID No. 35610 | | <i>PCW Revision February 29, 2008</i> | | |
| Reg. Ent. Reference No. RN100847813 | | | | |
| Media [Statute] Edwards Aquifer | | | | |
| Enf. Coordinator Yuliya Dunaway | | | | |
| Violation Number | | <div style="border: 1px solid black; width: 100px; text-align: center;">1</div> | | |
| Rule Cite(s) | | <div style="border: 1px solid black; width: 100%; text-align: center;">30 Tex. Admin. Code § 213.4(j)(2)</div> | | |
| Violation Description | <div style="border: 1px solid black; padding: 5px;"> <p>Failed to receive approval of modifications to an Edwards Aquifer Water Pollution Abatement Plan ("WPAP") prior to performing a regulated activity. Specifically, an Edwards Aquifer WPAP was approved for the Site on June 20, 2006 for backfilling abandoned quarry pit with inert, clean fill materials. During the investigation, it was documented that wood materials, rocks and general construction debris are being stored and processed on the Site primarily for Texas Department of Transportation projects.</p> </div> | | | |
| Base Penalty | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$10,000</div> |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> |
| | Potential | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> |
| | | | | Percent <div style="border: 1px solid black; width: 100px; text-align: center;">0%</div> |
| >> Programmatic Matrix | | | | |
| | Falsification | Major | Moderate | Minor |
| | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | x | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> |
| | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> |
| | | | | Percent <div style="border: 1px solid black; width: 100px; text-align: center;">25%</div> |
| Matrix Notes | <div style="border: 1px solid black; padding: 5px; text-align: center;">100% of the rule requirements were not met.</div> | | | |
| Adjustment | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$7,500</div> |
| | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$2,500</div> |
| Violation Events | | | | |
| Number of Violation Events | | <div style="border: 1px solid black; width: 100px; text-align: center;">1</div> | Number of violation days <div style="border: 1px solid black; width: 100px; text-align: center;">52</div> | |
| mark only one with an x | daily | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | Violation Base Penalty <div style="border: 1px solid black; width: 100px; text-align: center;">\$2,500</div> | |
| | monthly | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | | |
| | quarterly | x | | |
| | semiannual | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | | |
| | annual | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | | |
| | single event | <div style="border: 1px solid black; width: 100px; height: 20px;"></div> | | |
| One quarterly event is recommended from the date of the investigation, January 28, 2008, to the date of screening, March 20, 2008. | | | | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | |
| Estimated EB Amount | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$232</div> | Violation Final Penalty Total <div style="border: 1px solid black; width: 100px; text-align: center;">\$2,500</div> | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | <div style="border: 1px solid black; width: 100px; text-align: center;">\$2,500</div> |

Economic Benefit Worksheet**Respondent** Geosource, Inc. dba Geosource aka Wagner Materials**Case ID No.** 35610**Reg. Ent. Reference No.** RN100847813**Media** Edwards Aquifer**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$5,000 | 28-Jan-2008 | 1-Jan-2009 | 0.9 | \$232 | n/a | \$232 |

Notes for DELAYED costs

Estimated cost associated with removing all unauthorized by an Edwards Aquifer Water Pollution Abatement Plan materials from the Site and properly disposed of, calculated from the date of the investigation to the estimated date of compliance.

| | | | | | | | |
|--|--|--|--|-----|-----|-----|-----|
| Avoided Costs | | | | | | | |
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$5,000

TOTAL

\$232

Compliance History

| | | | | | | | | | | | | | | | |
|---|---|-------------------------|--------------|------------------------|----------------|---------|------------------------|--------|-------|------------------------|----------------|---------|-----------------|--------------|-------------|
| Customer/Respondent/Owner-Operator: | CN600523922 Geosource, Inc. | Classification: AVERAGE | Rating: 3.01 | | | | | | | | | | | | |
| Regulated Entity: | RN100847813 GEOSOURCE AKA WAGNER MATERIALS | Classification: | Site Rating: | | | | | | | | | | | | |
| ID Number(s): | <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">AIR NEW SOURCE PERMITS</td> <td style="width: 25%;">ACCOUNT NUMBER</td> <td style="width: 25%;">945333N</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>47789</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>947789V</td> </tr> <tr> <td>EDWARDS AQUIFER</td> <td>REGISTRATION</td> <td>13-06030103</td> </tr> </table> | | | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | 945333N | AIR NEW SOURCE PERMITS | PERMIT | 47789 | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | 947789V | EDWARDS AQUIFER | REGISTRATION | 13-06030103 |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | 945333N | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | PERMIT | 47789 | | | | | | | | | | | | | |
| AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | 947789V | | | | | | | | | | | | | |
| EDWARDS AQUIFER | REGISTRATION | 13-06030103 | | | | | | | | | | | | | |
| Location: | 1 MILE EAST OF HWY 281 ON FM 1863, COMAL AND BEXAR COUNTIES, TX | | | | | | | | | | | | | | |
| TCEQ Region: | REGION 13 - SAN ANTONIO | | | | | | | | | | | | | | |
| Date Compliance History Prepared: | March 18, 2008 | | | | | | | | | | | | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | | | | | | | | | | | | |
| Compliance Period: | March 18, 2003 to March 18, 2008 | | | | | | | | | | | | | | |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Yuliya Dunaway Phone: (210) 403-4077

Site Compliance History Components

- | | |
|--|--|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Geosource, Inc. |
| 4. If Yes, who was/were the prior owner(s)? | Imogene Wagner Co dba Wagner Materials |
| 5. When did the change(s) in ownership occur? | 01/15/2008 |

Components (Multimedia) for the Site :

- | | |
|----|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |
| | 1 01/25/2008 (615470) |
| | 2 03/13/2008 (615534) |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
| F. | Environmental audits. |
| | N/A |
| G. | Type of environmental management systems (EMSs). |
| | N/A |
| H. | Voluntary on-site compliance assessment dates. |
| | N/A |
| I. | Participation in a voluntary pollution reduction program. |
| | N/A |
| J. | Early compliance. |
| | N/A |
| K. | Sites Outside of Texas |
| | N/A |

CH 2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GEOSOURCE, INC. DBA
GEOSOURCE AKA WAGNER
MATERIALS,
RN100847813

§
§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0501-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Geosource, Inc. dba Geosource aka Wagner Materials ("Geosource") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Geosource, appear before the Commission and together stipulate that:

1. Geosource owns and operates a wood recycling facility located on the south side of FM 1863, approximately one mile east of US 281 North, Bexar and Comal Counties, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and TCEQ rules.
3. The Commission and Geosource agree that the Commission has jurisdiction to enter this Agreed Order, and that Geosource is subject to the Commission's jurisdiction.
4. Geosource received notice of the violations alleged in Section II ("Allegations") on or about January 29, 2008 and March 17, 2008.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Geosource of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand five hundred dollars (\$3,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Geosource has paid one thousand dollars (\$1,000.00) of the administrative penalty. The remaining amount of two thousand five hundred dollars (\$2,500.00) of the administrative penalty shall be payable in five monthly payments of five hundred dollars (\$500.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Geosource fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Geosource to meet the payment schedule of this Agreed Order constitutes the failure by Geosource to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Geosource have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Geosource has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Geosource is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 330.15(c) by failing to dispose of municipal solid waste in an authorized manner as documented on January 15, 2008. Specifically, approximately 20 cubic yards of non-inert materials (wood, silt fencing, metal, and plastics) were buried and/or being used as fill materials at the Facility.
2. 30 TEX. ADMIN. CODE § 213.4(j)(2) by failing to receive approval of modifications to an Edwards Aquifer Water Pollution Abatement Plan ("WPAP") prior to performing a regulated activity as documented on January 28, 2008. Specifically, an Edwards Aquifer WPAP was approved for the Facility on June 20, 2006 for backfilling an abandoned quarry pit with inert, clean fill materials. During the investigation, it was documented that wood materials, rocks, and general construction debris are being stored and processed at the Facility primarily for Texas Department of Transportation projects.

III. DENIALS

Geosource generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Geosource pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Geosource's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Geosource, Inc. dba Geosource aka Wagner Materials, Docket No. 2008-0501-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Geosource shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Geosource shall cease accepting and/or disposing of any additional non-inert material or waste either for the

use of fill material and/or to be buried at the Facility, in accordance with 30 TEX. ADMIN. CODE § 330.15(c);

- b. Within 30 days after the effective date of this Agreed Order, Geosource shall ensure that all unauthorized non-inert material or waste buried and/or being used as fill material at the Facility is removed and properly disposed of at an authorized facility; and
- c. Within 45 days after the effective date of the Agreed Order, Geosource shall submit written certification of compliance with Ordering Provisions 2.a. and 2.b. as described below:

The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

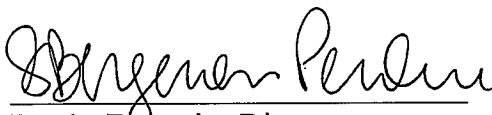
Henry Karnei, Jr., Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Geosource. Geosource is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Geosource fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Geosource's failure to comply is not a violation of this Agreed Order. Geosource shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Geosource shall notify the Executive Director within seven days after Geosource becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Geosource shall be made in writing to the Executive Director. Extensions are not effective until Geosource receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Geosource in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Geosource, or three days after the date on which the Commission mails notice of the Order to Geosource, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/9/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

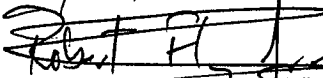


Name (Printed or typed)

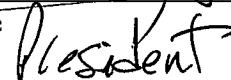
Authorized representative of

Geosource, Inc. dba Geosource aka Wagner Materials

7/11/08
Date



Title


President